HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.6046 of 2004

Date of decision : 15.5.2007

Jangir Singh **.....Petitioner**

versus

Dalbara Singh and others **.....Respondents**

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present: Sh.Ashish Gupta, Advocate for the petitioner.
Sh.Gurjant Singh, Advocate for the respondents.

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ORDER

HEMANT GUPTA, J.

Defendant No.1 is in revision aggrieved against the order of the learned trial Court dated 25.8.2004 whereby an application for correction of the judgment and decree was declined.

The grievance of the petitioner is that in a suit for declaration, the shares of the parties in the land were incorrectly mentioned and such mistake was not noticed while filing the written statement and consequently the decree was passed. Therefore the shares of each of the parties are required to be corrected.

It has been pointed out that as per the family settlement, plaintiff No.1 has 286 shares, plaintiff No.2 has 313 shares and plaintiff No.3 has 230 shares out of 1217 shares, whereas defendant has 160 out of 1217 shares. In view of the said mistake, the petitioner has requested for the correction of the shares of the parties.

The shares of the parties, as mentioned above, are not disputed by learned counsel for the plaintiffs-respondents before this

Court, but it is argued that the application for correction of the judgment and decree has been filed after 9 years of passing of the decree which is not permissible.

Under Section 152 of the Civil Procedure Code, an application for correction of the mistakes in the judgments, decrees or orders or errors arising therein from any accidental slip or omission, can be filed at any point of time. Therefore, mere delay in filing the application for correction of the mistake could not be a ground to decline such amendment in the decree. This Court in ***Kartar Singh versus Harchand Singh and others, 1994 (1), P.L.R.-25,*** has held that mistake in the judgment and decree occasioned from an accidental slip or omission cannot be corrected by the Court.

In view of the above, the order passed by the learned trial Court dated 25.8.2004 is suffering from patent illegality and irregularity. Consequently, the same is set-aside. The application of the petitioner dated 1.10.2002, Annexure P-3 is allowed as prayed for.

(HEMANT GUPTA)
JUDGE

May 15, 2007
**mohinder*